

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1035 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHETH HATHISING TRUST

Versus

REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

MR KV GADHIA for Petitioner

MR JD AJMERA for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/10/97

ORAL JUDGEMENT

By this special civil application, the petitioner challenges the order dated 22.7.1988, Annexure A, and order dated 12.12.1994, Annexure B, passed by the respondent. Annexure A is only a notice given to the petitioner to inform it that the provisions of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 ('the Act' for short) are applicable to its establishments and to comply with the provisions thereof.

Under the order Annexure B passed under Section 7A of the Act after hearing objections of the petitioner the respondent has decided that the said Act is rightly made applicable to the establishments. So Annexure A is now merged with annexure B and consequently it has no existence. Naturally effective order against the petitioner now is the annexure B. The order at Annexure B is appealable under Section 7-I of the Act. When this special civil application was filed by the petitioner, it is true that alternative remedy of appeal was not available but now the Appellate Tribunal has been constituted by the Central Government under Section 7D of the Act and as such this petition is not maintainable. This special civil application is rejected on the ground that alternative remedy of appeal is available to the petitioner against the impugned order. In case the petitioner prefers appeal against the impugned order within a period of one month from today it is expected of the Tribunal that the same may not be dismissed on the ground of limitation but it shall be decided on merits. The interim relief which has been granted by this Court in whatever terms shall continue for six weeks from today. Thereafter it is for the Tribunal to consider the question of the continuation of or extension of the interim relief in accordance with law. While doing so the Tribunal shall not be influenced by the fact that this Court has granted interim relief to the petitioner.

Subject to the aforesaid direction, rule is discharged with no order as to costs.